



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1994

Mr. David A. Anderson
Chief Legal Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR94-872

Dear Mr. Anderson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29934.

The Texas Education Agency ("TEA") received a request for information concerning the proposals solicited by TEA for the production of Braille versions of textbooks. Specifically the requestor seeks "the reports, recommendations and supporting documentation from the panel which reviewed Texas braille production." You claim the requested information is excepted from required public disclosure under sections 552.104 and 552.111 of the Government Code.

Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In a recent opinion that reexamined the section 552.111 exception, this office concluded that section 552.111 excepts from public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. Open Records Decision No. 615 (1993) at 5 (copy enclosed). The policymaking functions of an agency, however, do not encompass routine internal administrative and personnel matters. *Id.* Furthermore, section 552.111 does not except purely factual information from disclosure. *Id.*

You claim that "(1) the Panel has not completed preparation of its recommendations; (2) upon completion, the Panel's recommendation will be presented to the commissioner of education for his deliberation and recommendation to the State Board of Education; and (3) that the State Board of Education will select proposers at its November 1994 meeting." We have reviewed the documents submitted for our consideration. We agree that the "Evaluation Summary Sheet" consists of advice, opinion, and recommendation reflecting the policymaking process of TEA. You may, therefore, withhold the "Evaluation Summary Sheet" under section 552.111 of the Government Code. The remaining information consists of guidelines issued by TEA concerning the selection criteria. You may not withhold this information under section 552.111.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/rho

Ref.: ID# 29934

Enclosures: Submitted documents

cc: Ms. Elizabeth Gross
Director
Visual Aid Volunteers, Inc.
617 State Street
Garland, Texas 75040
(w/o enclosures)

¹Your letter states that "[o]n October 5, 1994, the Panel awarded numerical scores to each proposal *based on the selection criteria specified in the request for proposal.*" (Emphasis added.) As the "Selection Criteria" was specified by TEA's request for proposals, we do not see how release of this information would give one proposer an advantage over another proposer. You may not withhold this information under section 552.104 of the Government Code.